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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,998	04/12/2004	Ian M. Chong	INTE-1-1002	4662
25315	7590	11/17/2006	EXAMINER	
BLACK LOWE & GRAHAM, PLLC 701 FIFTH AVENUE SUITE 4800 SEATTLE, WA 98104			KING, ANITA M	
			ART UNIT	PAPER NUMBER
			3632	

DATE MAILED: 11/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/822,998

Applicant(s)

CHONG ET AL.

Examiner

Anita M. King

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) 39-43 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 11, 12, 14, 16-27, 30, 31, 33 and 35-38 is/are rejected.
- 7) ☒ Claim(s) 9, 10, 13, 15, 28, 29, 32 and 34 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

This is the second office action for application number 10/822,998, Apparatuses Systems, and Methods for Positioning a Powered Tool, filed on April 12, 2004.

### ***Election/Restrictions***

Claims 39-43 withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on January 30, 2006.

### ***Drawings***

In order to avoid abandonment, the drawing informalities noted in the paper mailed on April 14, 2006, must now be corrected. Correction can only be effected in the manner set forth in the above noted paper.

### ***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-7, 11, 12, 16-26, 30, 31, and 35-38 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 4,621,785 to Embra. Embra discloses an apparatus for supporting an object, the apparatus comprising: a support member (16, 56, 118), the support member having an adjustable length between a first end and a second end; a control device (20 and 100) operably coupled with the support member, the control device being configured to receive a supply of a motivating force (the rotation of screw

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21 and knob 100) and a user input (hand twisting motion of screw and knob), the control device being further configured to direct at least a portion of the motivating force to the support member to direct the support member to at least one of extend and contract as indicated by the user input received; a bracket (24) disposed at the first end of the support member, the bracket being configured for receiving the object and including a tiltable coupling (@26) joining the bracket to the support member; a base end disposed at the second end of the support member, the base end being configured to engage a supporting surface; wherein the support member includes an extensible cylinder (16), the extensible cylinder including a shaft (56) and a housing (118), the shaft being slidable within an inner channel of the housing; wherein the support member includes a pressure cylinder and the motivating force includes a pressure source; wherein the control device is configured to direct a pressure from the pressure source into the pressure cylinder causing the shaft to extend from the housing; wherein the control device is configured to direct a pressure from the pressure source into the pressure cylinder causing the shaft to retract into the housing; wherein the control device is configured to release pressure from the pressure cylinder allowing the shaft to retract into the housing; wherein the pressure cylinder includes a pneumatic cylinder and the pressure source includes a pressurized gas source; wherein the control device includes a multiple-position control including an extended position, a contracted position, and a neutral position; wherein the tiltable coupling includes at least one of rotatable joint and a swiveling joint; wherein the base end is configured to be tiltable relative to a surface

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receiving the base end; and a base plate (92) configured to tiltably receive the base end with a ball joint.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 14 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Embra in view of U.S. Patent 5,083,147 to Nakatani. Embra further discloses a knob (26) extending from the tiltable bracket. Embra discloses the claimed invention except for the limitation of a support handle extending from the tiltable bracket.

Nakatani teaches that it is known to have a tiltable bracket (10) attachable to a support member and wherein a handle (72) extends from the bracket. It would have been obvious to one having ordinary skill in the art at the time the invention was made to either include the tiltable bracket taught by Nakatani or the handle as taught by Nakatani for the purpose of providing an alternative better gripping means for manipulating the adjustment of the bracket in relation to the support member.

Claims 8 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Embra in view of U.S. Patent 4,245,826 to Wirges. Embra discloses the claimed invention except for the limitation of a hydraulic cylinder using a pressurized liquid source, Wirges teaches an adjustable length support member including a hydraulic cylinder and the pressure source including a pressurized liquid source. It would have been obvious to one having ordinary skill in the art at the time the invention was made

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to have modified the cylinder in Embra to have been an liquid pressurized hydraulic cylinder for the purpose of providing an alternative, mechanically equivalent means for adjusting the height of the support member.

### ***Allowable Subject Matter***

Claims 9, 10, 13, 15, 28, 29, 32, and 34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Response to Arguments***

Applicant's arguments filed September 8, 2006 have been fully considered but they are not persuasive. The rejections advanced against the claims stand.

In response to applicant's arguments that Embra does not anticipate the instant invention because it does not teach a pressure cylinder and motivating force including a pressure source; wherein the control device is configured to direct a pressure from the pressure source into the pressure cylinder causing the shaft to extend from the housing; wherein the control device is configured to release pressure from the pressure cylinder allowing the shaft to retract into the housing; and wherein the cylinder includes a pneumatic cylinder and the pressure source includes a pressurized gas source, as applicant has noted in the remarks filed September 8, 2006 on page 10, the air in Embra is the motivating force. Thus, Embra does indeed disclose a pressure cylinder (16) and the motivating force (air) includes a pressure source (the atmosphere); wherein

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the control device (20) is configured to direct a pressure from the pressure source (Col. 4, line 4ff) into the pressure cylinder causing the shaft (56) to extend from the housing (118); wherein the control device is configured to release pressure from the pressure cylinder allowing the shaft to retract into the housing; and wherein the pressure cylinder includes a pneumatic cylinder and the pressure source includes a pressurized gas source (air is a gas and because pressurized within the cylinder).

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., air moving the cylinder) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

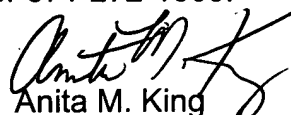
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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anita M. King whose telephone number is (571) 272-6817. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on (571) 272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Anita M. King  
Primary Examiner  
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November 13, 2006